THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.26622 of 2006

DATED: 22.12.2006

Between:

1. Shravan Kumar Naredi, s/o. Ram Avathar Agarwal
2. Vinay Kumar Naredi, s/o. Ram Avathar Agarwal

...

Petitioners

and

The Commissioner, Municipal Corporation of Hyderabad and others

...Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.26622 of 2006

ORDER:

Heard Ms.Kalpana Ekbot, learned counsel representing the petitioners. Smt.Jyothi Kiran takes notice on behalf of respondent Nos.1 and 2. Learned Government Pleader for Municipal Administration takes notice on behalf of respondent No.3.

Ms.Kalpana Ekbot, learned counsel representing the Writ Petitioners would submit that when a notice was issued, dated 24.11.2006, the objections were filed on 02.12.2006 narrating several particulars in detail, and without considering the objections, there are continuous threats of demolition by respondent Nos.1 and 2.

Smt.Jyothi Kiran, learned Standing Counsel representing respondent Nos.1 and 2 submits that in the event of taking further action, respondent Nos.1 and 2 would follow further due process of law.

Heard the counsel.

The Writ Petition is filed for a Writ of Mandamus declaring the action of respondent No.2 in issuing the proceedings No.9/RW/ACP/C5/MCH/2006, dated 24.11.2006, as illegal, arbitrary, unjust and against the principles of natural justice, and consequently direct the respondents not to interfere with the peaceful possession and enjoyment of the petitioners' House bearing Nos.8-2-626/5/B + 8-2-626/5/C, Road No.1, Banjara Hills, Hyderabad and pass such suitable orders.

Several factual details are narrated in para Nos.2, 3 and 4 of the affidavit filed in support of the Writ Petition. The notice, dated 24.11.2006, reads as hereunder: -

MUNCIPAL CORPORATION OF HYDERBAD

O/o.Asst.City Planner,
Town Planning Section, Circle V,
Khairthabad, Hyderabad.

No.9/RW/ACP/C5/MCH/2006 Dated: 24.11.2006

To
Sri Ram Avathar Agarwal Neredi
8-2-226/5-C
Road No.1, Banjara Hills.

Sir,

Sub: MCH - T P. Section – Circle V – Road Widening
from Nagarjuna Junction to Masab Tank Junction for
proposed 100'-00" wide road – Regarding.

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With reference to the subject cited, I am herewith enclosing a copy of the plan showing the premises bearing No.

8-2-226/5-C situated at Road No.1, B.Hills which is getting effected under road widening from Nagarjuna Junction to Masab Tank Junction for proposed 100'-00" wide road, Hyderabad, as per Z.D.P. and approved R.D.P.

In the said widening programme your premises No.8-2-226/5-C is getting affected to a depth of 16 to 12 admeasuring 160.2 Sq. yds/Sq.mts.

Therefore, while enclosing the plan of the affected portion, you are requested to extend your co-operation with MCH by exercising your consent to handover advance possession of the area affected in Road Widening to MCH in the public interest.

The M.C.H. will arrange to pay the compensation for structural valuation in respect of the affected portion or you will be allowed to avail the concessions as prescribed by the Government in G.O.Ms.No.483, dated 24-8-1998 for the re-development of balance area. The MCH will re-construct the compound wall and sump, etc, affected under road widening.

Your co-operation in the public interest is earnestly solicited.

Yours faithfully,

Sd/-
ASST.CITY PLANNER,
CIRCLE.V,M.C.H.

The objections raised in the reply letter, dated 02.12.2006, addressed to the Chief City Planner, the contents thereof read as hereunder:-

"With reference to the above cited, we wish to inform you that the Door No. mentioned by you as 8-2-226/5/C in our name does not pertain to us. Our Door no. is :8-2-625/5/C. Thus please inform us if the letter submitted by you pertains to us, and just in case if it is a writing error, then we request you to clarify us on the below given points:

1. You haven't mentioned the final time for starting/commencement of the demolition process for the purpose of road widening.

2. There is no mention of the compensation that will be allowed for the property being acquired.

3. Copy of the GOMs No: 483 dated 24.8.1998 as mentioned in your letter is not enclosed. We as a layman don't have sufficient knowledge of the contents in this GO and so are unable to plan out on what benefits we can exactly get from this.

4. Your letter is not in the prescribed format and it is difficult to understand if this is just a letter, or a notice or an intimation or a request to us to give our land for road widening.

5. There is already 85 Feet Existing Road in front of our property, which means that it needs to be widened by around 15 feet more. But the markings specified by you show as 16ft on side of our property and 12ft on another side of our property. There is no marking visible on the property on the other side of the road opposite to our property. If road is to be widened by 15ft, then it is not understandable and not justified that almost the complete 15ft needs to be sacrificed by us from our property. We request you to kindly check into this matter and as the existing road in front of our property is 85ft, we request you to kindly divide the balance 15ft into two portions and let us share only 7.5 ft maximum in this road widening.

6. Our original Registered property is of 852 sq.yards., but when we had applied for the construction of our house in 1985, we were asked to leave some area in the front of our property. We had done so and had not taken any compensation from you at that time so that we could utilize the same in FSI, set backs and redevelopment of the balance area whenever required. We need clarification as to what will be the status of the then acquired property.

We request you to kindly provide us clarification on the above mentioned points and plan any further step after further discussions and consent from us. After getting answers for the above points from you, we will be able to further plan out and shall get back to you.

Please understand that this instant letter of yours has come as a shock to us and we need some time to plan out all further things.

Kindly acknowledge the receipt of this letter and oblige"

It is needless to say that respondent Nos.1 and 2 are bound to consider such objections raised by the petitioners before proceeding for demolition activity. In view of the same, respondent Nos.1 and 2 are hereby directed to consider the objections and proceed further in accordance with law if need be and till the said exercise is completed, *status quo* obtaining as on today shall be maintained.

The Writ petition is disposed of accordingly. No order as to costs.

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(P.S.NARAYANA, J)

Dt:22.12.2006
Note: Issue C.C in one week.
B/o.
vv/bsb